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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,411	09/12/2005	Habib Zaghouani	07316.0002.PCUS00	8513
22930	7590	02/11/2008		
HOWREY LLP C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DR, SUITE 200 FALLS CHURCH, VA 22042-2924			EXAMINER EWOLDT, GERALD R	
			ART UNIT	PAPER NUMBER
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			02/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/510,411	Applicant(s) ZAGHOUBANI ET AL.	
	Examiner G. R. Ewoldt, Ph.D.	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-65 is/are pending in the application.
- 4a) Of the above claim(s) 49,50 and 62-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47,48 and 51-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group II, Claims 47, 48, and 51-61, filed 12/07/07, is acknowledged.

Claims 49, 50, and 62-65 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected inventions.

Claims 47, 48, and 51-61 are under examination.

2. The Title and Abstract are objected to because they do not adequately describe the claimed invention. Applicant is advised that a Title and Abstract commensurate in scope with the invention of the instant claims are required. See MPEP 608.01(b).

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 61 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, specifically, the claim is indefinite as it depends from a cancelled claim.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 47, 48, and 51-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/30706 (IDS) in view of Liu et al. (2000).

WO 98/30706 teaches an engineered fusion protein for the treatment of IDDM, in particular, a humanized IgG_{2b} chimeric protein wherein an autoantigen peptide is inserted into the D segment of a CDR3 loop, further including a soluble pharmaceutical composition of the construct (see particularly Figure 1, page 13, and Example II).

The reference teaching differs from the claimed invention only in that it does not teach Ig-chimera constructs comprising the GAD peptides of SEQ ID NOS:3 and 4.

Liu, et al. teaches that the peptides of SEQ ID NOS:3 and 4 comprise known T cell epitopes (see particularly page 14597, column 1 paragraph). The reference also teaches that the epitopes are thought to be involved in the diabetogenic process (see particularly page 14596, paragraph spanning columns 1 and 2).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to produce the construct of WO 98/30706 employing the T cell epitopes of SEQ ID NOS:3 and 4, as taught by Liu et al. One of ordinary skill in the art at the time the invention was made would have been motivated to use the epitopes of Liu et al. because they were thought to be involved in the diabetogenic process and thus, suitable for use in the constructs of the instant claims.

7. No claim is allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Gerald Ewoldt whose telephone number is (571)272-0843. The examiner can normally be reached Monday through Thursday from 7:30 am to 5:30 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara, Ph.D. can be reached on (571) 272-0878.

9. **Please Note:** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.


2/05/08

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